

United States Department of State
***Bureau of Oceans and International Environmental
and Scientific Affairs***

Limits in the Seas

No. 147

Ecuador

Maritime Claims and Boundaries



LIMITS IN THE SEAS

No. 147

ECUADOR

MARITIME CLAIMS AND BOUNDARIES

July 23, 2020

**Office of Ocean and Polar Affairs
Bureau of Oceans and International Environmental and Scientific Affairs
U.S. Department of State**

This study is one of a series issued by the Office of Ocean and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs in the U.S. Department of State. The purpose of the series is to examine a coastal State's maritime claims and/or boundaries and assess their consistency with international law. This study represents the views of the United States Government only on the specific matters discussed therein and does not necessarily reflect an acceptance of the limits claimed.

This study, and earlier studies in this series, may be downloaded from <https://www.state.gov/limits-in-the-seas/>. Comments and questions should be emailed to LimitsInTheSeas@state.gov. Principal analysts for this study are from the Department of State's Office of Ocean and Polar Affairs and the Office of the Legal Adviser.

Introduction

This study analyzes the maritime claims and maritime boundaries of the Republic of Ecuador (Ecuador).

The Basis for Analysis section summarizes Ecuador's maritime claims and boundaries and discusses the relevant provisions of the international law of the sea. The Analysis section that follows examines these claims and boundaries from a geographic and legal perspective, including for consistency with the international law of the sea. The Conclusion briefly summarizes the results of this study's analysis of Ecuador's maritime claims.

Basis for Analysis

The basis for this study's analysis of Ecuador's maritime claims is the international law of the sea, as reflected in the United Nations Convention on the Law of the Sea (Convention).¹ Ecuador acceded to the Convention on September 24, 2012.

Summary of Ecuador's Maritime Claims and Boundaries

In 1952, Ecuador claimed "exclusive sovereignty and jurisdiction" over the sea, including the seabed and the subsoil, extending a "minimum distance" of 200 nautical miles (M) from its coasts.² This 200-M territorial sea claim is reflected in Ecuador's domestic legislation.³ In 1971, Ecuador claimed straight baselines (from which the breadth of its territorial sea is measured) along its mainland coast and surrounding the Galapagos Islands.⁴ In 1985, Ecuador asserted a continental shelf extending beyond its 200-M territorial sea, located between the territorial sea from Ecuador's mainland and its territorial sea from the Galapagos Islands.⁵ In 2012, Ecuador and Peru jointly declared Golfo de Guayaquil (Gulf of Guayaquil)⁶ as a historic bay and claimed the waters within the bay as internal waters.⁷

¹ [United Nations Convention on the Law of the Sea](#), Montego Bay, opened for signature Dec. 10, 1982, entered into force Nov. 16, 1994, 1833 UNTS 397. The United States considers the substantive provisions of the Convention cited in this study to reflect customary international law, as do international courts and tribunals. See, e.g., J.A. Roach, "Today's Customary International Law of the Sea," *Ocean Dev't & Int'l L.*, 45: 239-252 (2014).

² [Declaration on the Maritime Zone](#), Aug. 18, 1952, 1006 UNTS 323, at 326-27 (Annex 1 to this study).

³ Civil Code as amended by Decree No. 256-CLP of Feb. 27, 1970, available from UN Division for Ocean Affairs and the Law of the Sea (DOALOS), at its [website](#) pertaining to Ecuador's maritime claims and boundaries (also Annex 2 to this study). Ecuador also claimed a 200-M territorial sea in its *Decree No. 1542* of 1966.

⁴ *Supreme Decree No. 959-A*, June 28, 1971, available from DOALOS, *supra* note 3 (also Annex 3 to this study). The analysis of Ecuador's straight baselines in this study is based on this *Decree* and not Ecuador's nautical charts. See *infra*, note 20.

⁵ *Declaration on the Continental Shelf* (1985) (referring to the depth constraint in paragraph 5 of Article 76—"a distance of 100 miles measured from the 2,500 metre isobath"), available from DOALOS, *supra* note 3 (also Annex 4 to this study).

⁶ Geographic names used in this study are those officially approved by the U.S. Government. Names in parentheses are variations that are not necessarily recognized by the United States.

⁷ *Joint Declaration on the International Recognition of the Gulf of Guayaquil as a Historic Bay*, Nov. 23, 2012, available from DOALOS, *supra* note 3 (also Annex 5 to this study).

Upon its ratification of the Convention in 2012, Ecuador deposited a declaration that appears to reaffirm some of Ecuador's claims described above, but also alter some of those claims. In this regard, the declaration described Ecuador's maritime zones as including a 12-M territorial sea and a 200-M exclusive economic zone (EEZ).⁸

Ecuador has established its maritime boundaries with Colombia, Costa Rica, and Peru.⁹ Selected maritime laws, declarations, and enactments of Ecuador are reproduced in Annexes 1 to 6 of this study.

Baselines

Part II of the Convention sets forth rules governing coastal baselines, from which the seaward limits of maritime zones are measured. The normal baseline is the low-water line along the coast, as described in Article 5 of the Convention. Additional related provisions are found in Articles 6 (reefs), 9 (mouths of rivers), 10 (bays), 11 (ports), 12 (roadsteads), and 13 (low-tide elevations).

The Convention also permits the method of straight baselines, but only where the coastal geography meets certain conditions, namely: (1) "[i]n localities where the coastline is deeply indented and cut into;" or (2) where "there is a fringe of islands along the coast in its immediate vicinity" (Article 7, paragraph 1).

The International Court of Justice has observed that:

the method of straight baselines, which is an exception to the normal rules for the determination of baselines, may only be applied if a number of conditions are met. This method must be applied restrictively. Such conditions are primarily that either the coastline is deeply indented and cut into, or that there is a fringe of islands along the coast in its immediate vicinity.¹⁰

Where the coastal geography does permit the use of straight baselines, Article 7 provides additional requirements for the drawing of straight baselines. Relevant provisions state that straight baselines shall not depart to any appreciable extent from the general direction of the coast; that sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters; that such baselines shall not be drawn, with noted exceptions, to and from low-tide elevations; and that the system of such baselines may not be applied in such a manner as to cut off the territorial sea of another State from the high seas or an exclusive economic zone (Article 7, paragraphs 3 to 6).

Part IV of the Convention contains the rules regarding the drawing of archipelagic baselines by archipelagic States. An "archipelagic State" means a State "constituted wholly by one or more

⁸ Declaration of Ecuador made upon accession to the Convention, deposited with the Secretary-General of the United Nations, Sept. 24, 2012, 2868 UNTS 180 (A-31363) (Annex 6 to this study). Numerous States have expressed formal concerns in response to this declaration noting its lack of clarity and inconsistencies with the Convention. See UN Treaty Collection [website](#), Chapter XXI, Law of the Sea.

⁹ See *infra*, notes 55–64 and corresponding text.

¹⁰ *Case Concerning Maritime Delimitation and Territorial Questions Between Qatar and Bahrain* (merits), 2001, ICJ Rep. 103, para. 212.

archipelagos and may include other islands” (Article 46(a)). Only an “archipelagic State” may draw archipelagic baselines (Article 47).

The articles of the Convention referred to above comprehensively regulate the baselines that coastal States may establish. Where the conditions described in those articles are not met, the Convention provides for the use of the normal baseline. As stated in Article 5, “[e]xcept where otherwise provided in this Convention, the normal baseline” is the low-water line along the coast. “[T]o suit different conditions,” the Convention also permits a coastal State to determine its baselines by a combination of methods (Article 14), and for an archipelagic State to delimit its internal waters using Articles 9 (mouths of rivers), 10 (bays), and 11 (ports) (Article 50).

Waters on the landward side of normal and straight baselines are internal waters (Article 8), as are the waters within closing lines related to reefs, mouths of rivers, bays, and ports (Articles 6, 9, 10, and 11). Waters on the landward side of archipelagic baselines are archipelagic waters (Article 49).

Historic Bays

Article 10 (Bays) contains the only substantive provision of the Convention that refers to “historic” bays (paragraph 6). It simply states that the provisions of Article 10 concerning juridical bays “do not apply to so-called ‘historic’ bays.” This provision is identical to the one contained in Article 7 of the 1958 Convention on the Territorial Sea and the Contiguous Zone.¹¹

The United States has taken the view that, in order to establish the existence of a historic bay, a State must demonstrate (1) open, notorious, and effective exercise of authority over the body of water in question; (2) continuous exercise of that authority; and (3) acquiescence by foreign States in the exercise of that authority.¹² These limitations are consonant with the views of influential international legal authorities, including as summarized in the 1962 study on the “Juridical Régime of Historic Waters, Including Historic Bays,” commissioned by the Conference that adopted the 1958 Geneva Conventions on the law of the sea.¹³ With respect to a historic claim to a bay bordered by more than one State, the requirements referred to above must be demonstrated by those States claiming the historic bay.¹⁴ The United States also considers that the burden of establishing the existence of a historic bay is on the claimant(s).

¹¹ [Convention on the Territorial Sea and the Contiguous Zone](#), Geneva, Apr. 29, 1958, entered into force Sept. 10, 1964, 516 UNTS 205.

¹² See, e.g., [Limits in the Seas](#) No. 112: “United States Responses to Excessive National Maritime Claims,” U.S. Dep’t. of State, Mar. 9, 1992; [Limits in the Seas](#) No. 112: “China: Maritime Claims in the South China Sea,” U.S. Dep’t. of State, Dec. 5, 2014; Memorandum from Bernard H. Oxman, Dep’t of State Ass’t Legal Adviser for Ocean Affairs (Sept. 17, 1973), *excerpted in Digest of U.S. Practice in International Law* 1973, at 244 (A.W. Rovine ed.).

¹³ International Law Commission, *Juridical Régime of Historic Waters, Including Historic Bays*, [1962] 2 Y.B. Int’l L. Comm’n 1, U.N. Doc. A/CN.4/143 [hereinafter UN Study]. See also jurisprudence of the U.S. Supreme Court, e.g., *United States v. Louisiana*, 394 U.S. 11, 23 (1969), and *United States v. California*, 381 U.S. 139, 172 (1965).

¹⁴ See, e.g., UN Study, *id.*, para 147.

Maritime Zones

International law, as reflected in the Convention, contains rules governing a coastal State's entitlement to maritime zones.

Part II of the Convention sets forth the rules governing the territorial sea, which may extend up to 12 M from the baselines, and in which the coastal State exercises sovereignty subject to the right of innocent passage and other rules of international law (Articles 2 and 3). Provisions related to innocent passage are set forth in Articles 17 to 32. In addition, Part II describes a contiguous zone, extending beyond the territorial sea to a maximum of 24 M from the baselines, within which a coastal State may exercise the control necessary to prevent and punish infringement of its customs, fiscal, immigration, or sanitary laws and regulations within its territory or territorial sea (Article 33).

Part V of the Convention sets forth provisions related to the EEZ, which may extend to a maximum of 200 M from the baselines. Within the EEZ, the coastal State has enumerated rights, notably, "sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources," and "jurisdiction as provided for" in the Convention with regard to "the establishment and use of artificial islands, installations and structures" as well as "marine scientific research" and "the protection and preservation of the marine environment" (Article 56). At the same time, the freedoms of navigation, overflight, laying and maintenance of submarine cables, and other lawful uses of the sea related to these freedoms are preserved in the EEZ (Articles 58 and 87).

Part VI of the Convention sets forth provisions relating to the continental shelf, which extends to the outer edge of the continental margin or to a distance of 200 M from the baselines, as described in Article 76. The coastal State exercises sovereign rights for the purpose of exploring the continental shelf and exploiting its natural resources; these rights are "exclusive" and "do not depend on occupation, effective or notional, or on any express proclamation" (Article 77). Subject to certain provisions, however, all States are entitled to lay submarine cables and pipelines on the continental shelf (Article 79).

Maritime Boundaries

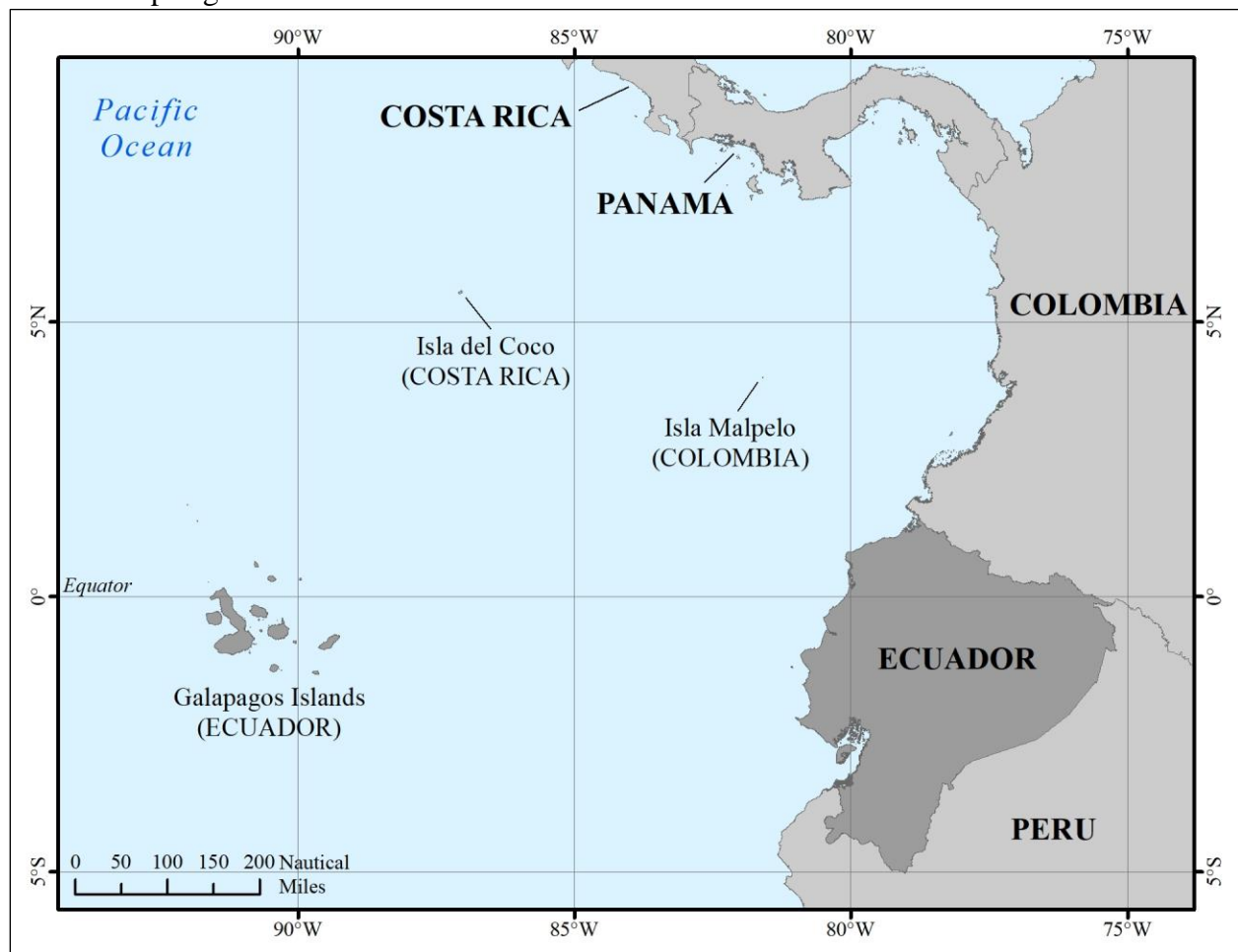
Maritime boundary delimitation issues arise when the maritime zones of neighboring States overlap. Articles 15, 74, and 83 of the Convention set forth provisions regarding the delimitation of maritime boundaries between opposite and adjacent coastal States. Article 15, concerning delimitation of the territorial sea, provides that "failing agreement . . . to the contrary," one State is not entitled "to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured." However, this provision "does not apply . . . where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith."

With regard to the delimitation of the EEZ and continental shelf, respectively, Articles 74 and 83 provide that the delimitation "shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an

equitable solution.” Thus, the location of a maritime boundary is usually a matter for the coastal States with overlapping maritime zones to resolve by agreement, and international law provides considerable flexibility so long as the these States consider the outcome an “equitable” one. A maritime boundary agreement cannot, however, affect the rights or obligations of third States without their consent.

Analysis¹⁵

Ecuador is a coastal State located in northwestern South America. Ecuador shares land boundaries with Colombia (north) and Peru (west and south) and faces the Pacific Ocean (west) (Map 1). The land territory of Ecuador also includes the Galapagos Islands (Archipiélago de Galápagos), located approximately 500 M (927 km) west of Ecuador’s mainland coast. The Galapagos Islands form an archipelago that consists of 19 main islands and numerous smaller features.¹⁶ Four islands are inhabited, and the largest island, Isla Isabela, accounts for almost 60 percent of the total land area of the archipelago.



Map 1. Illustrative regional overview map of Ecuador and its neighboring States. Scale: 1:15,000,000.¹⁷

¹⁵ Calculations for this analysis were conducted in Esri ArcMap 10.5.1 and CARIS LOTS Limits and Boundaries 4.1.

¹⁶ Marine Environment Protection Committee, Resolution MEPC.135(53) Annex 23 (July 22, 2005), Doc. No. [MEPC 53/24/Add.2](#), para. 1.1 (main islands are those with an area exceeding 1 km²).

¹⁷ All illustrative maps in this study use Mercator projection in the WGS84 datum. Source: Shoreline data, NGA.

Baselines

Ecuador's *Supreme Decree No. 959-A* of 1971 sets forth straight baselines from which Ecuador measures the breadth of its territorial sea (see Maps 2 and 3 and Annex 3 to this study).¹⁸ Ecuador's straight baselines pertain to both Ecuador's mainland coast and the Galapagos Islands.¹⁹ It appears that neither Ecuador's decree nor any subsequent enactment includes published geographical coordinates of the baseline points used by Ecuador. It also appears as though Ecuador has not deposited charts or lists of geographical coordinates with the UN Secretary-General that depict its straight baselines.²⁰ As a result, this analysis relies solely on the descriptions of Ecuador's straight baselines contained in its 1971 decree.

Mainland Coast

Ecuador's baseline system for its mainland coast consists of four segments connecting five points (Table 1, Map 2). The four segments have a total length of approximately 330 M. Points 1 and 5 are located on maritime boundaries; points 2 and 4 are located on coastal promontories; and point 3 is located on Isla de La Plata, which is approximately 12.9 M off the mainland coast of Ecuador.

Table 1. *Ecuador's straight baseline system for its mainland.*

Segment (points)	Length (M)	Location
1–2	63	The point of intersection of the Ecuador-Colombia maritime boundary (point 1) and a straight line from Cabo Manglares, Colombia to Punta Galera, Ecuador (point 2)
2–3	139	Punta Galera (point 2) to Isla de La Plata (point 3)
3–4	56	Isla de La Plata (point 3) to Punta Santa Elena (Puntilla de Santa Elena) (point 4)
4–5	72	Punta Santa Elena (point 4) to a point on the Ecuador-Peru maritime boundary (point 5), where a line connecting point 4 and Cabo Blanco in Peru intersects the maritime boundary

¹⁸ *Supreme Decree*, *supra* note 4. Upon accession to the Convention in 2012, Ecuador stated that it “reiterates the full force and validity” of this decree (Annex 6 to this study). Ecuador's claimed straight baselines were first analyzed in *Limits in the Seas* No. 42 (1972).

¹⁹ The baselines promulgated in 1971 with respect to the Galapagos Islands were preceded by a 1951 decree which was “interpreted by some as implying that straight baselines existed around the Galapagos Islands.” *Limits in the Seas* No. 42, at 4–5 (1972).

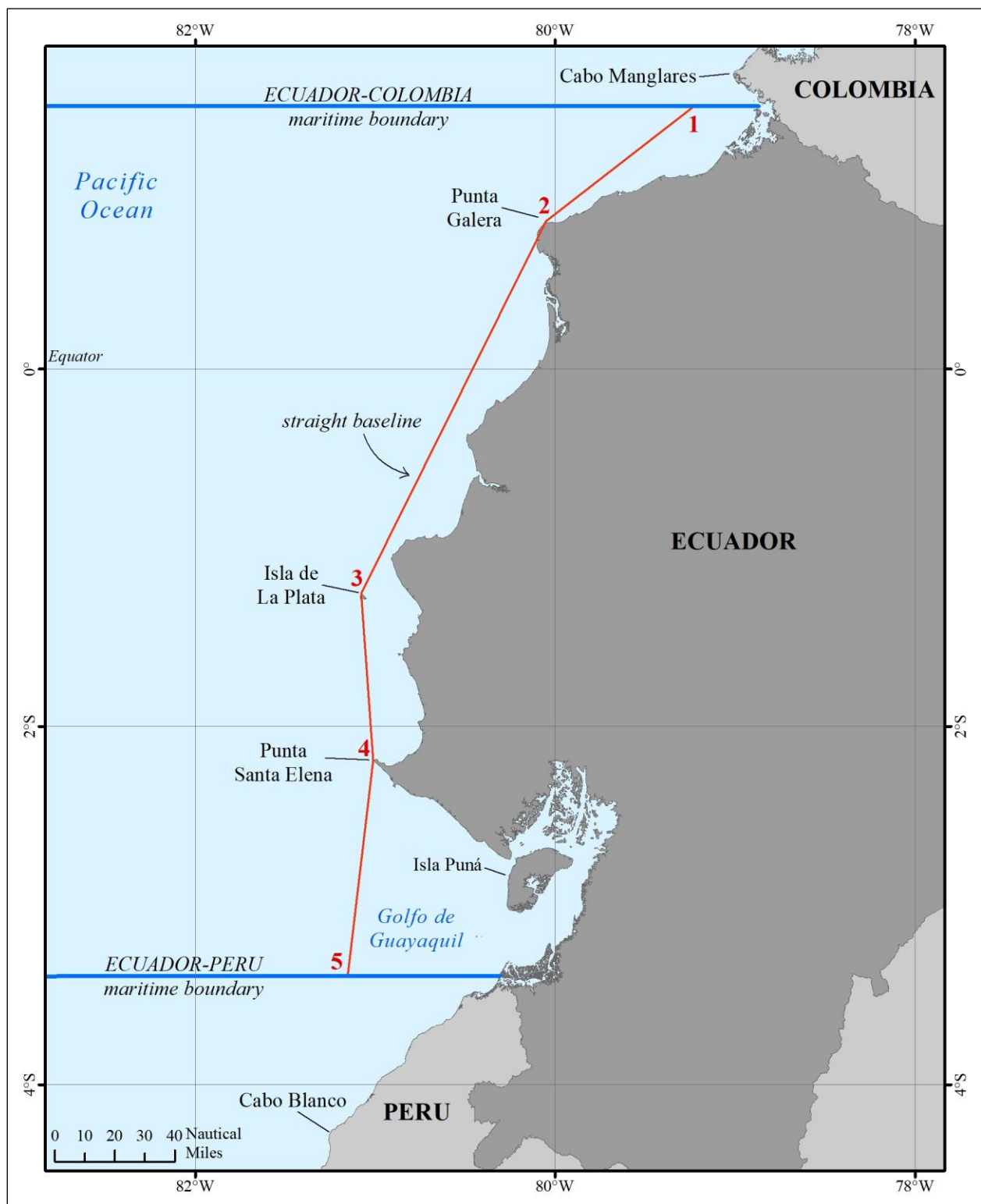
²⁰ See Convention, *supra* note 1, art. 16(2) (relating to due publicity and deposit of charts or lists of geographical coordinates). Ecuador has deposited with the Secretary General its Chart I.O.A. 41, entitled “Maritime Boundary Ecuador-Colombia.” M.Z.N. 90. 2012. LOS, Oct. 10, 2012, available from DOALOS, *supra* note 3. This chart depicts two baseline points on Punta Galera and two baseline points on Isla de La Plata, which appears to be inconsistent with Ecuador's 1971 *Decree*. Chart I.O.A. 20, entitled “Archipiélago de Galápagos” depicts Ecuador's straight baselines for the Galapagos Islands and can be viewed at the [website](#) of Ecuador's Oceanographic Institute of the Navy (INOCAR). This chart has not been deposited with the UN Secretary-General and is not at a sufficient scale to use in analysis. The analysis in this study is based on Ecuador's *Decree*, and not Ecuador's charts.

The coastline of mainland Ecuador is generally smooth and is marked by gentle indentations, promontories, and very few islands.²¹ South of the Ecuador-Colombia land boundary, the Ecuadorian coast is smooth, marked by several river mouths and small indentations. Punta Galera is a coastal promontory on which basepoint 2 is located. South of Punta Galera (point 2), the coastline is remarkably smooth, with concavities and promontories. The coastline in this area is interrupted by several river mouths. Isla de La Plata (point 3) is a single, isolated island. For it to be part of a “fringe of islands along the coast,” additional islands would need to be present along the coast in its immediate vicinity.²² South of Isla de La Plata (point 3), the coast is predominantly smooth, with some serrations. Punta Santa Elena is a coastal promontory on which basepoint 4 is located. South of Punta Santa Elena, the smooth character of the coastline continues into the mouth of Golfo de Guayaquil, interrupted by one small, peninsular feature. None of the concavities along Ecuador’s coast could be considered deep indentations. Rather, they are mere curvatures of the coastline that do not meet the geographic criteria of Article 7 (straight baselines) or the requirements of Article 10 of the Convention for the drawing of a bay closing line. Baselines could be drawn, however, across several river mouths along Ecuador’s mainland coast (Article 9).

Because Ecuador’s mainland coast is not “deeply indented and cut into” nor is it fringed with “islands along the coast in its immediate vicinity,” it does not meet the geographic requirements in Article 7 for the use of straight baselines. The lone possible exception is the area deep within the mouth of Golfo de Guayaquil (see Map 4). In that area, there are numerous river mouths indenting the coastline, along with Isla Puná and other small islands lying immediately offshore. Some of the waters deep within the gulf could also constitute a juridical bay, consistent with Article 10.

²¹ As stated by Sweden in its protest of Ecuador’s baselines, the “[t]he Ecuadorian coastline is stable and even.” [*Law of the Sea Bulletin*](#) No. 83, at 16 (2014).

²² DOALOS, *Baselines: An Examination of the Relevant Provisions of the United Nations Convention on the Law of the Sea*, at 21 (1989) (“Clearly there must be more than one island in the fringe”).



Map 2. Illustrative map of Ecuador's claimed straight baselines along the mainland coast. Cabo Manglares (Colombia) and Cabo Blanco (Peru) are relevant to the construction of the first and last baseline segments, respectively, which connect to maritime boundaries. Scale: 1:3,650,000.

Galapagos Islands

Ecuador's baseline system for the Galapagos Islands consists of eight segments connecting eight points (Table 2, Map 3). The eight segments have a total length of approximately 552 M. The baselines are drawn around the outermost eight islands of the archipelago, enclosing the other islands therein. As indicated in the table below, baseline lengths range from 37 to 124 M.

Table 2. Ecuador's straight baseline system for the Galapagos Islands.

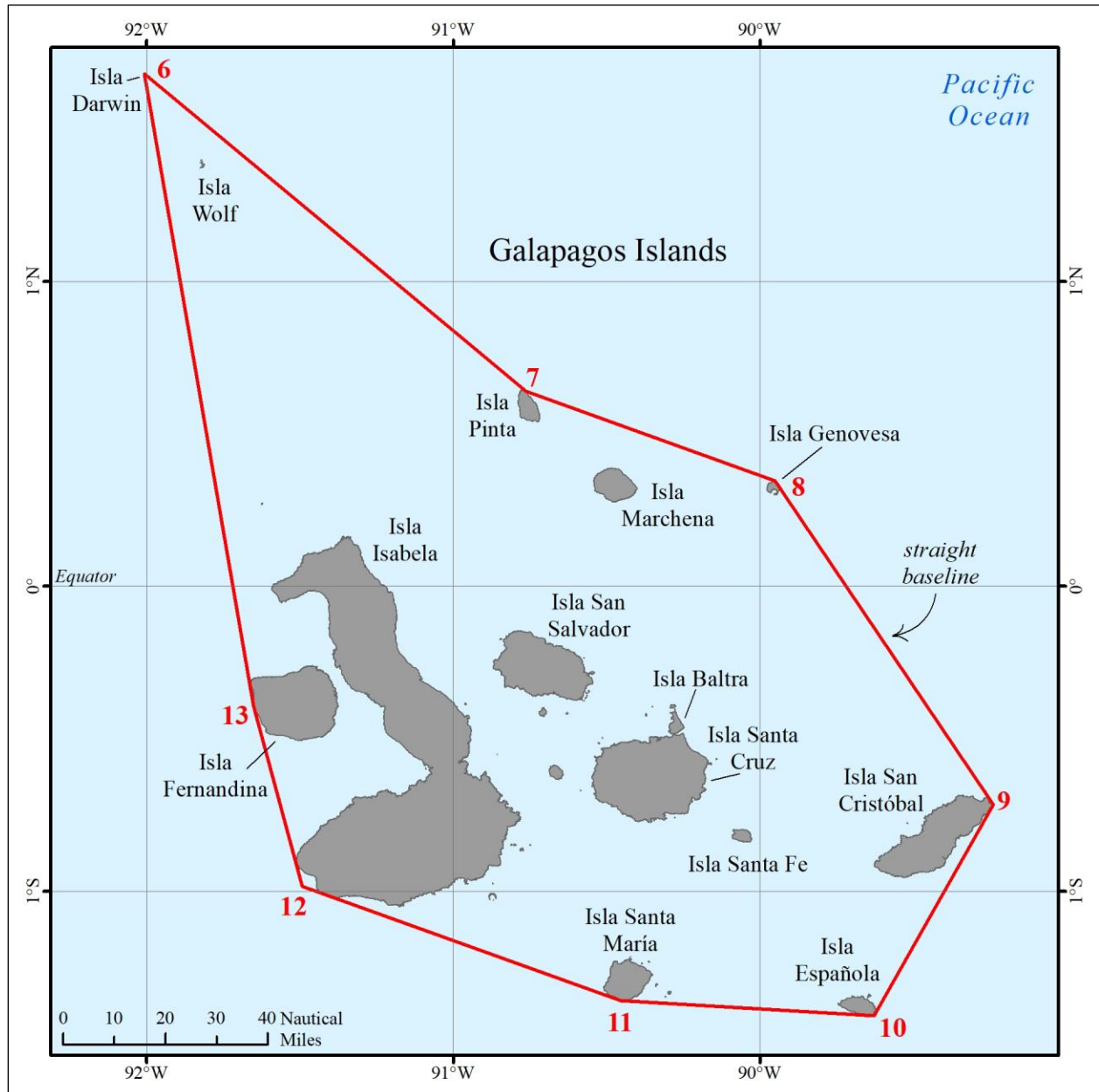
Segment (points)	Length (M)	Location
6–7	97	Isla Darwin (Islote Darwin) (point 6) to Isla Pinta (point 7)
7–8	52	Isla Pinta (point 7) to Isla Genovesa (point 8)
8–9	77	Isla Genovesa (point 8) to a point offshore Isla San Cristóbal (point 9)
9–10	47	A point offshore Isla San Cristóbal (point 9) to Isla Española (point 10)
10–11	50	Isla Española (point 10) to Isla Santa María (point 11)
11–12	66	Isla Santa María (point 11) to a point offshore Isla Isabela (point 12)
12–13	37	A point offshore Isla Isabela (point 12) to Isla Fernandina (point 13)
13–6	126	Isla Fernandina (point 13) to Isla Darwin (point 6)

The coastlines of the Galapagos Islands are generally smooth with promontories and volcanic, rocky outcrops. Some islands, such as Isla Genovesa, have lagoons or other bay-like indentations. Most islands are small, such that they do not readily admit to deep indentations. The islands on the perimeter of the Galapagos archipelago are also separated by considerable distances, from approximately 16 to more than 70 M. Isla Darwin is separated from the other Galapagos Islands that comprise the straight baseline system by more than 95 M. These distances are large relative to the size of the islands themselves, indicating that the islands used for the straight baselines cannot be said to fringe one another or be in the “immediate vicinity” of one another. Because the coastlines of these islands are not “deeply indented and cut into” nor are they fringed with “islands along the coast in its immediate vicinity,” they do not meet the geographic requirements in Article 7 for the use of straight baselines.

Ecuador's straight baselines around the Galapagos Islands cannot be considered archipelagic baselines under Part IV of the Convention. As provided in Article 47, only “[a]n archipelagic State may draw straight archipelagic baselines.” Article 46 specifies that an “‘archipelagic State’ means a State constituted *wholly* by one or more archipelagos and may include other islands” (emphasis added). Continental States with offshore archipelagos, such as Ecuador, are not archipelagic States and therefore may not draw archipelagic baselines. It appears that Ecuador recognizes this limitation, considering that its 2012 declaration upon accession to the Convention refers only to “straight baselines” (Article 7 of the Convention) and not archipelagic baselines (Article 47).

During the negotiation of the Convention at the Third U.N. Conference on the Law of the Sea (UNCLOS III, 1973–1982), Ecuador proposed draft Convention text providing that “[t]he method applied to archipelagic States for the drawing of baselines shall also apply to archipelagos that

form part of a [non-archipelagic] State”²³ Such a provision, had it been adopted, would have enabled Ecuador to draw baselines around the Galapagos Islands utilizing the archipelagic baseline provisions that were eventually adopted as Article 47 of the Convention. The decision of States to limit the applicability of Article 47 to archipelagic States demonstrates that non-archipelagic States, like Ecuador, must conform their baselines to the relevant provisions of the Convention set forth in Part II of the Convention as described in the Basis for Analysis section above.



Map 3. Illustrative map of Ecuador's claimed straight baselines enclosing the Galapagos Islands. Scale: 1:2,400,000.

²³ III Official Records 227, UN Doc. [A/CONF.62/C.2/L.51](#) (1974). For similar views expressed later in the Third Conference, see 126th Plenary Meeting, XIII Official Records 19, UN Doc. [A/CONF.62/SR.126](#) (1980); 190th Plenary Meeting, XVII Official Records 96, UN Doc. [A/CONF.62/SR.190](#) (1982).

Discussion

Ecuador has utilized straight baselines for the entirety of its mainland coast and the Galapagos Islands. There are no areas in which Ecuador uses the normal baseline. However, with one possible exception noted above, Ecuador's coasts do not meet the geographic requirements in Article 7 of the Convention for the use of straight baselines. Ecuador's coastlines are not "deeply indented and cut into" nor are they fringed with "islands along the coast in its immediate vicinity." Accordingly, Ecuador's use of straight baselines is not consistent with international law, as reflected in Part II of the Convention.

Even if the coastlines of Ecuador met the geographic requirements for straight baselines, the extraordinarily long baseline segments (37 to 136 M) drawn by Ecuador depart considerably from the general direction of the coasts of the islands and enclose waters that are not sufficiently closely linked to the land domain to be subject to the regime of internal waters. Segment 2–3 along the mainland coast is among the longest straight baseline segments claimed by any coastal State.²⁴ Most of Ecuador's baselines around the Galapagos Islands extend through maritime space where there are no coasts at all. In many areas, the baselines are located well beyond 12 M from the low-water line along the coast. Points 9 and 12 cannot be a valid basepoints, as they are located in open water.

Compared to using normal baselines, Ecuador's straight baseline systems have the effect of enclosing large areas of territorial sea and EEZ as internal waters. Ecuador's mainland baselines enclose as internal waters an area of approximately 25,000 km² and the Galapagos Islands baselines enclose approximately 46,000 km² of maritime space.

The United States and numerous other States have protested Ecuador's baselines as inconsistent with international law, as reflected in the Convention.²⁵ Scholarly studies also identify Ecuador's straight baselines as excessive and not permitted by the Convention.²⁶

Historic Bays

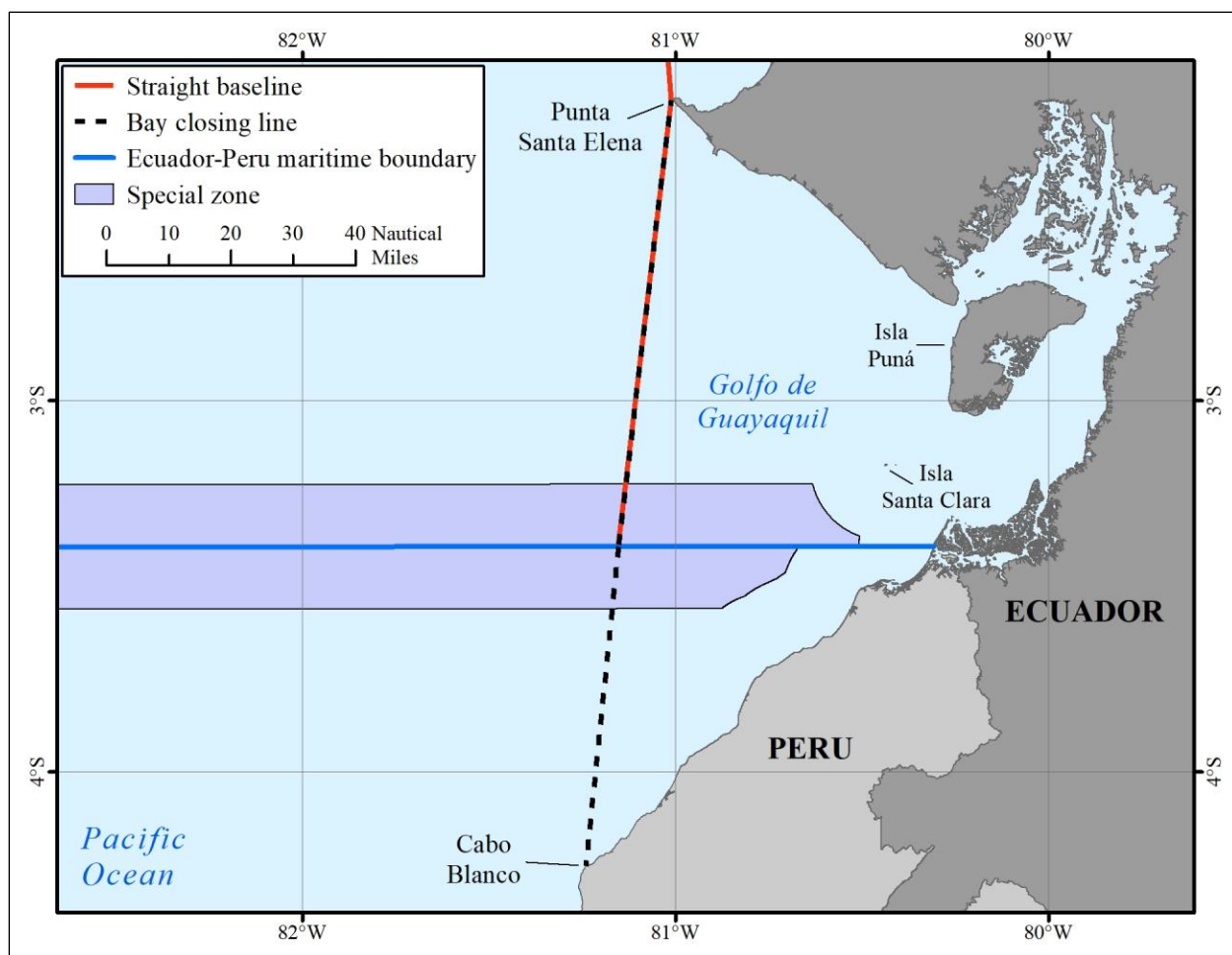
In 2012, Ecuador and Peru jointly declared Golfo de Guayaquil to be a historic bay (Map 4 and Annex 5 to this study).²⁷ The closing line delimiting the outer limit of the gulf is a line drawn from Punta Santa Elena (Puntilla de Santa Elena) (Ecuador) to Cabo Blanco (Peru). The closing line is approximately 124 M in length and encloses more than 17,000 km² of maritime space as internal waters. Part of this closing line constitutes segment 4–5 of Ecuador's straight baseline system for its mainland coast.

²⁴ V. Prescott & C. Schofield, *The Maritime Political Boundaries of the World* 141, 654 (2d ed., 2005).

²⁵ See e.g., [Law of the Sea Bulletin](#) No. 83, at 14–19 (2014). The diplomatic protest by the United States is reproduced in J.A. Roach and R.W. Smith, *Excessive Maritime Claims*, 3rd ed. (Nijhoff, 2012), at 105–106. The United States conducted an operational assertion challenging Ecuador's straight baseline claim in 2011. *Id.*, at 77. See also, [Limits in the Seas](#) No. 42, *supra* note 18 (concluding that Ecuador's baselines do not conform to customary international law); and [Digest of U.S. Practice in International Law 2017](#), at 531–33 (C.D. Guymon, ed.) (reprinting a more recent U.S. diplomatic protest).

²⁶ See e.g., R.R. Churchill & A.V. Lowe, *The Law of the Sea* 39, 40 (3d ed., 1999).

²⁷ *Joint Declaration*, *supra* note 7.



Map 4. Illustrative map of the Golfo de Guayaquil historic bay claim of Ecuador and Peru. The segment of the bay closing line from Punta Santa Elena to the Ecuador-Peru maritime boundary is straight baseline segment 4–5. Scale: 1:2,225,000.

The declaration by Ecuador and Peru claiming Golfo de Guayaquil to be a historic bay states the following in support of this gulf’s historic bay designation:

- The gulf has “been under the sovereignty and jurisdiction of each State in their respective sectors,”
- The gulf is characterized by “unique geographical conditions and ecosystem,” and
- The gulf “has been viewed by the people of Ecuador and Peru as a major area for the exploitation of natural resources, trade and shipping.”²⁸

Ecuador’s 2012 declaration upon accession to the Convention also states the following justification for Ecuador’s historic bay claim: “its traditional use and exploitation by the people of Ecuador, as well as the positive influence of the waters of the Guayas river in generating an ecosystem rich in natural resources.”

²⁸ The *Declaration*, *supra* note 7, also states that the claim is supported by “historic, legal, cartographic and geomorphological surveys carried out by the joint Peru-Ecuador working group.” It is not known whether this work is publicly available, such that it could contribute to an assessment of the legality of this claim.

Regardless of whether these characterizations are accurate, they do not support the view that Golfo de Guayaquil is a historic bay. As stated in the Basis for Analysis section above, for a claim of historic waters to be valid under customary international law, claimants must demonstrate: (1) open, notorious, and effective exercise of authority over the body of water in question; (2) continuous exercise of that authority; and (3) acquiescence by foreign States in the exercise of that authority. Ecuador has not demonstrated that any of these requirements is met with respect to Golfo de Guayaquil. In particular, having been asserted only in 2012, it is not apparent how Ecuador's claim could satisfy requirements predicated on historicity.²⁹ If this body of water had the character of a historic bay, as asserted in 2012, it would presumably have been mentioned more than 40 years earlier in the 1971 decree establishing a straight baseline across the gulf.³⁰ A comprehensive study on historic waters published in 2008 did not mention this body of water;³¹ if this claim existed at all prior to 2012, it was effectively unknown internationally. Moreover, the United States has not acquiesced to this claim—to the contrary, it has expressly rejected it³²—and Peru and Ecuador do not appear to allege that the international community more broadly has accepted this claim.

Maritime Zones

Internal Waters

Ecuador claims the waters landward of its baseline as its internal waters, over which it has sovereignty.³³ Ecuador similarly asserts that the waters landward of the closing line of Golfo de Guayaquil constitute internal waters by virtue of its status as a historic bay.

The validity of Ecuador's internal waters claim depends upon the validity of Ecuador's baselines and historic bay claims. As discussed above, those claims are not consistent with international law. Accordingly, Ecuador's internal waters claims are not valid, and its maritime zones should be measured from the normal baseline.

Territorial Sea

The 1952 *Declaration on the Maritime Zone* includes a claim by Ecuador to “an extension of the territorial sea ...” that includes “exclusive sovereignty and jurisdiction” extending a “minimum distance” of 200 M.³⁴ This assertion aligns with the 200-M territorial sea claimed by Ecuador in

²⁹ See e.g., C.R. Symmons, *Historic Waters in the Law of the Sea: A Modern Re-Appraisal* (2008), at 151 (stating that “[t]he very requirement of *continuity of claim* implies a claim having been in existence for a considerable time, and hence some historicity) (emphasis in original) and 156 (“the whole doctrine [of historic claims] militates against claims which have only been made in the recent past.”).

³⁰ *Id.*, at 106–07 (considering that excessive closing lines across bays, in the absence of mentioning “historic” or its equivalent in the claim, may be *prima facie* evidence *against* the existence of a historic claim) (emphasis in original).

³¹ *Id.*

³² *Digest 2017*, *supra* note 25 (noting that the United States “does not recognize” Ecuador's historic bay claim).

³³ *Civil Code*, *supra* note 3; *Decree*, art. 2, *supra* note 4; and 2012 *Declaration*, *supra* note 8, secs. II and III.

³⁴ *Declaration on the Maritime Zone*, *supra*, note 2.

its domestic legislation and asserted internationally.³⁵ Because it does not conform to customary international law as reflected in the Convention, this claim is not valid and has been protested by the United States and other States.

In 2012, Ecuador's declaration upon accession to the Convention "confirm[ed] the full validity" of the 1952 Declaration, yet also stated that Ecuador's territorial sea "extends from the baselines to a limit not exceeding 12 nautical miles."³⁶ The declaration also states that, within its territorial sea, Ecuador "exercise[s] its sovereign jurisdiction and competence, without limitation of any type." This denial of any limitation is inconsistent with Article 2 of the Convention, which provides that coastal State sovereignty over the territorial sea is "exercised subject to this Convention and to other rules of international law" (emphasis added).

Despite its ambiguity and inconsistencies, it appears that Ecuador's 2012 declaration reflects an attempt to bring its excessive 200-M territorial sea claim into conformity with the international law requirement that the breadth of the territorial sea not exceed 12 M (Convention, Article 3). Modifications to Ecuador's domestic legislation clarifying that the breadth of its territorial sea does not exceed 12 M would eliminate the current ambiguity.

Contiguous Zone

Ecuador has not formally claimed a contiguous zone.

Exclusive Economic Zone

In 2012, Ecuador's declaration upon accession to the Convention stated that Ecuador has an EEZ extending 200 M from the baselines.³⁷ The declaration also describes Ecuador's legal authorities in its EEZ.

Although parts of Ecuador's declaration are generally consistent with the EEZ-related provisions of the Convention, the terms of the declaration diverge considerably from the Convention in several respects. First, whereas the Convention refers to the "sovereign rights" and "jurisdiction" of the coastal State, Ecuador asserts "exclusive sovereignty." As discussed above, the *sovereignty* of the coastal State cannot extend beyond its territorial sea, the maximum breadth of which is 12 M. Second, Ecuador's declaration provides that "other States shall observe and comply with the laws, rules and regulations issued by the Ecuadorian State in its capacity as a coastal State," whereas Article 58 of the Convention provides that the obligations of other States pertain only to complying with coastal State laws and regulations that are "in accordance with the provisions of this Convention and other rules of international law" Third, Ecuador claims all residual rights and jurisdiction (i.e., those not attributed to coastal States or other States in the Convention), which

³⁵ *Civil Code*, *supra* note 3, art. 628 (referring to a 200 nautical mile "territorial sea"). Ecuador "reiterate[d] its position in defense of its 200-mile territorial sea" at the conclusion of UNCLOS III. 190th Plenary Meeting, XVII *Official Records* 97, UN Doc. [A/CONF.62/SR.190](#) (1982).

³⁶ *Declaration*, *supra* note 8, secs. I and II.

³⁷ *Id.*, secs. II (claiming an EEZ extending 188 M from the territorial sea limit), IV, and X.

is inconsistent with the Convention.³⁸ Fourth, as discussed further below, the declaration contains restrictions on navigation and overflight in the EEZ that are inconsistent with the Convention.

The United States and numerous other States have communicated to Ecuador that its declaration may not exclude or modify the legal effects of the provisions of the Convention in their application to Ecuador.³⁹

Continental Shelf

Although it did not refer to a continental shelf, the 1952 *Declaration on the Maritime Zone* includes a claim by Ecuador to “exclusive sovereignty and jurisdiction” over the seabed and subsoil extending a “minimum distance” of 200 M.⁴⁰

In 1985, Ecuador’s *Declaration on the Continental Shelf* referred to its continental shelf “within its territorial sea of 200 miles” and also declared a continental shelf extending beyond 200 M.⁴¹ Specifically, the declaration describes Ecuador’s shelf as located “between” Ecuador’s mainland territorial sea and its territorial sea from the Galapagos Islands, extending “up to a distance of 100 miles measured from the 2,500 metre isobaths.” The declaration’s preamble identifies the Carnegie Ridge as a seafloor feature that “lies at depths of less than 2,500 metres.”

In 2012, Ecuador’s declaration upon accession to the Convention stated Ecuador’s intention, under Article 76 of the Convention, to “extend its continental shelf to a distance of 350 nautical miles measured from the baselines of the Galapagos Archipelago.”⁴²

The substantive rules governing the limits of the continental shelf are contained in paragraphs 1 to 7 of Article 76. Those provisions state that the continental shelf extends either to 200 M or to the “outer edge of the continental margin,” whichever is more seaward. Thus, the legal basis for a continental shelf extending beyond 200 M is the *continental margin*. The extent of the continental margin depends on the characteristics of the seabed and subsoil, consistent with the provisions of paragraph 4 of Article 76. Ecuador, however, has not invoked these provisions. Rather, Ecuador has identified the constraints in paragraph 5 of Article 76 (350 M, in its 2012 declaration; 100 M from the 2,500 meter isobath, in its 1985 declaration) as the bases for the outer limits of its continental shelf. These provisions are not valid bases for continental shelf entitlement beyond 200 M; rather, they apply only where the *continental margin* extends to such distances (i.e., to 350 M or 100 M from the 2,500 meter isobath). In such cases, paragraph 5 provides that the outer

³⁸ Convention, *supra* note 1, art. 59 (describing the basis for the resolution of conflicts in cases where the Convention does not attribute rights or jurisdiction to the coastal State or to other States within the EEZ).

³⁹ *LOS Bulletin and Digest 2017*, *supra*, note 25. See also, UN Treaty Collection website, *supra* note 8.

⁴⁰ *Declaration on the Maritime Zone*, *supra*, note 2.

⁴¹ *Declaration on the Continental Shelf*, *supra*, note 5.

⁴² *Declaration*, *supra* note 8, sec V. See also, *Plan de Ordenamiento del Espacio Marino Costero* (Coastal Marine Space Management Plan), National Secretary for Planning and Development, Republic of Ecuador (2017), at 38 and 40, available from the [website](#) of the Secretaría Técnica Planifica Ecuador (illustrative maps indicating some specific areas of possible areas of continental shelf beyond 200 nautical miles).

limits of the continental shelf “either” may not exceed 350 M or may not exceed 100 M from the 2,500 meter isobath.⁴³

Accordingly, the United States and other States have protested the 1985 declaration of Ecuador.⁴⁴ If Ecuador considers that its continental shelf extends to the limits described in its 1985 or 2012 declarations, it would need to demonstrate that its continental margin extends to those distances, in accordance with paragraph 4 of Article 76. This could be done through a submission to the Commission on the Limits of the Continental Shelf pursuant to paragraph 8 of Article 76.⁴⁵

Navigation and Overflight

Ecuador’s declaration upon accession to the Convention contains several provisions relating to navigation and overflight.⁴⁶

With respect to the territorial sea, section III of the declaration recognizes the right of innocent passage by foreign ships, “with the obligation that they comply with the provisions of the Ecuadorian State.” With respect to the EEZ, section IV of the declaration recognizes that “[a]ll other States, whether coastal or land-locked, enjoy the freedoms of navigation, overflight and the laying of submarine cables and pipelines, subject to the provisions of the Convention.” With respect to all maritime zones of Ecuador, section XVIII of the declaration prohibits “military exercises or manoeuvres of any type” without the express consent of Ecuador. Section XI of the declaration refers to passage by vessels and aircraft through all of Ecuador’s maritime zones as being “subject to prior notification and authorization by the Ecuadorian State.”

Several of these provisions are ambiguous or clearly inconsistent with customary international law as reflected in the Convention. Ecuador may not condition the exercise of navigational rights and freedoms, including innocent passage in the territorial sea or the freedoms of navigation and overflight in the EEZ, on a requirement to provide prior notification. Such requirements are inconsistent with international law and are not recognized by the United States. The prohibition on military exercises without Ecuador’s consent in areas beyond Ecuador’s territorial sea is also inconsistent with international law as reflected in the Convention. Military activities, including military exercises and maneuvers, constitute an internationally lawful use of the seas, and are permitted in the EEZ in accordance with Article 58. Any application of Ecuador’s declaration that hampers innocent passage (within the territorial sea) or freedom of navigation and overflight (within the EEZ), except in accordance with the Convention, would be inconsistent with international law.

⁴³ As Ireland stated at UNCLOS III, these provisions “in fact involve cutting off from national jurisdiction parts of the [continental] margin.” 186th Plenary Meeting, XVII *Official Records* 24, UN Doc. [A/CONF.62/SR.186](#) (1982).

⁴⁴ See e.g., Roach & Smith, *supra* note 25 (reprinting U.S. diplomatic protest) and Tullio Treves, *Codification de Droit International et Pratique des États dans le Droit de la Mer*, 223 *Recueil des Cours* 97 (1990) (discussing Germany’s diplomatic protest of Ecuador’s declaration).

⁴⁵ Ecuador’s deadline for the filing of a submission is October 24, 2022, i.e., “within 10 years of the entry into force of this Convention for that State,” as provided for in the Convention, *supra* note 1, art. 308(2) and Annex II, art. 4.

⁴⁶ *Declaration*, *supra* note 8, secs. III, IV, XI, and XVIII.

On numerous occasions, Ecuador has protested planned or actual flight paths of U.S. military aircraft operating off the coast of Ecuador.⁴⁷ According to Ecuador, such flights by U.S. military aircraft require clearance by Ecuadorian authorities prior to overflying Ecuador's airspace. However, the incidents in question involved planned or actual flight paths of U.S. military aircraft located in international airspace, well beyond 12 M from Ecuador's land territory. The United States has replied to these protests by stating that national airspace may not extend beyond the limits of a 12-M territorial sea measured from lawful coastal baselines, beyond which all States enjoy the freedom of navigation and overflight and other internationally lawful uses of the sea.

Ecuador's protests of U.S. military aircraft operating in international airspace continued following Ecuador's accession to the Convention in 2012. In 2013, in response to U.S. concerns over its overflight restrictions, Ecuador stated that:

... in the exclusive economic zone of Ecuador there is freedom of navigation and overflight for ships and aircrafts of other States, in accordance with the provisions of the UNCLOS and the statement made by Ecuador when it adhered to the Convention in October 2012. ... [A]ppropriate arrangements ... have been made in order to comply with the provisions of the UN Convention on the Law of the Sea⁴⁸

However, Ecuador's protest of planned or actual flights by U.S. military aircraft in international airspace continued even after Ecuador communicated the understanding above to the United States.⁴⁹

Considering Ecuador's national legislation, its subsequent accession to the Convention, and its practice with respect to U.S. aircraft, Ecuador's claims related to its authority to regulate overflight beyond the 12-M limit of the territorial sea remain unclear. Ecuador's domestic legislation provides for national airspace extending 200 M from its territorial sea baselines.⁵⁰ Ecuador's declaration upon accession appears to be an attempt to bring this unlawful claim into conformity with the international law requirement limiting a coastal State's national airspace to the territorial sea limit (i.e., a maximum of 12 M). Notwithstanding this, it appears that in some respects, Ecuador still does not recognize the freedoms of navigation and overflight and other internationally lawful uses of the sea that are provided for by the Convention in areas beyond a 12-M territorial sea.

In 2005, the International Maritime Organization (IMO) designated the Galapagos archipelago as a Particularly Sensitive Sea Area (PSSA).⁵¹ The PSSA designation reflects international recognition of the unique ecosystems and the terrestrial and marine biodiversity of the archipelago as an area in need of special protection through action by the IMO because of its vulnerability to damage by international shipping activities. An essential component of this PSSA designation under IMO procedures are the associated protective measures (APM) for the designated PSSA,

⁴⁷ See e.g., *Digest of U.S. Practice in International Law 2004*, at 700–02 (S.J. Cummins, ed.); *Digest of U.S. Practice in International Law 2013*, at 367–69 (C.D. Guymon, ed.).

⁴⁸ *Digest 2013*, *supra* note 47, at 369 (reprinting the Ecuadorian statement in part).

⁴⁹ *Digest 2017*, *supra* note 25.

⁵⁰ *Civil Code*, *supra* note 3, arts. 628, 629 (“airspace corresponding to the territory of the State, including the [200-mile] territorial sea as defined in the preceding Article, shall also be part of the national domain.”).

⁵¹ Marine Environment Protection Committee, *supra* note 16 (designating the Galapagos archipelago as a PSSA).

which are limited to actions within the purview of IMO as agreed by IMO Member States, such as ships' routing and reporting systems.⁵² Among the associated protective measures for this PSSA is an "area to be avoided" by which "[a]ll ships and barges carrying cargoes of oil or hazardous material and all ships of 500 gross tonnage and above solely in transit 'should' avoid the designated area."⁵³ However, the promotion of these measures by Ecuador, and their adoption by States at the IMO, does not constitute an acceptance by IMO Member States of the view that the "Ecuadorian State ... exercises full jurisdiction and sovereignty" over the PSSA and area to be avoided, as stated by Ecuador in its 2012 declaration upon accession to the Convention.⁵⁴

Undersea Cables and Pipelines

Ecuador's declaration upon accession to the Convention in 2012 recognizes the freedoms of all States with respect to the "laying of submarine cables and pipelines, subject to the provisions of the Convention" within the EEZ of Ecuador. The declaration does not mention the rights of other States relating to undersea cables and pipelines on the continental shelf of Ecuador. Relevant provisions of international law relating to the laying of submarine cables and pipelines on the continental shelf are found in Part VI of the Convention, in particular Article 79. Any regulation of submarine cables and pipelines in Ecuador's EEZ or on its continental shelf would need to conform to the relevant provisions of the Convention.

Maritime Boundaries

Ecuador has concluded maritime boundary agreements with Peru (1952 and 2011), Colombia (1975 and 2012), and Costa Rica (1985 and 2014). Ecuador's boundaries with these States are shown on Map 5 to this study. It does not appear that Ecuador has any unresolved maritime boundaries.

Ecuador-Peru

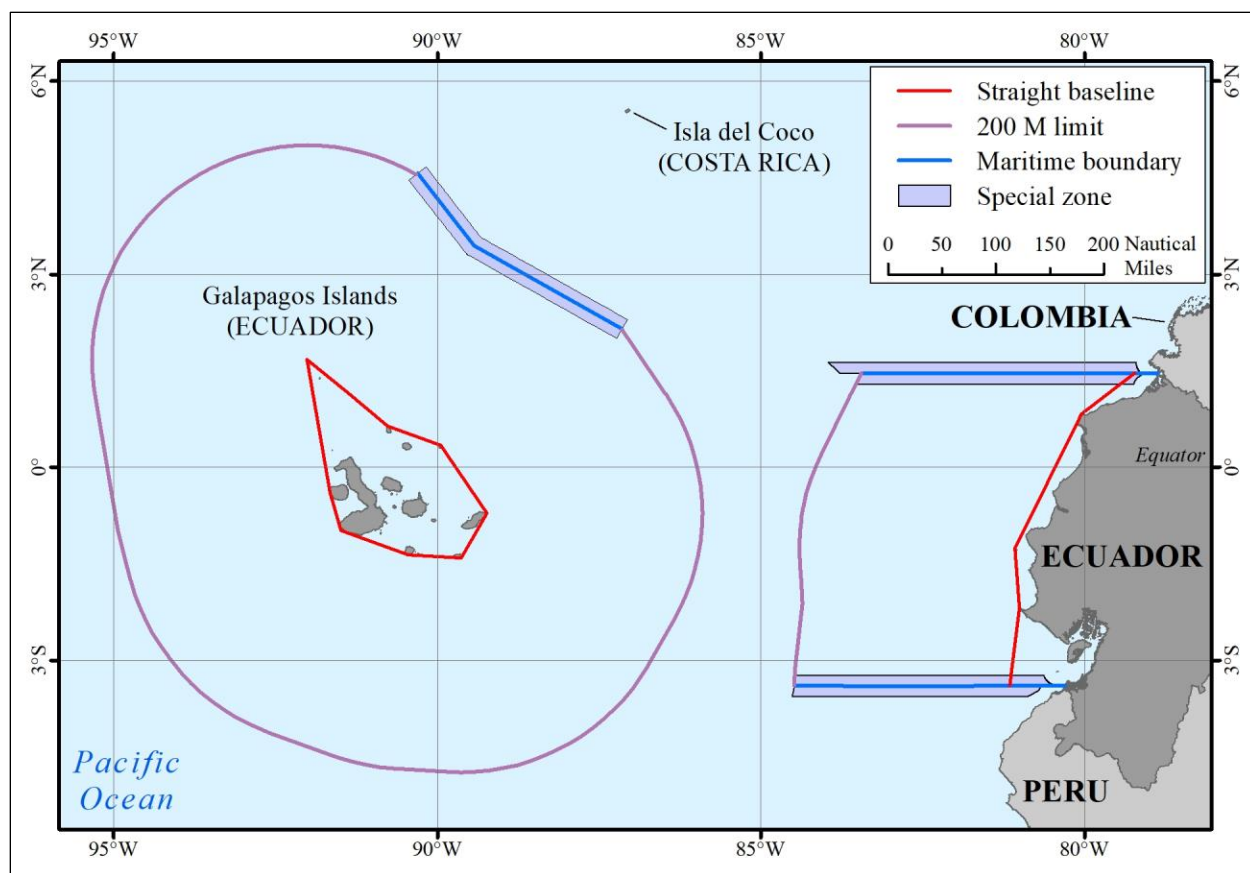
Ecuador's maritime boundary with Peru extends seaward along a parallel-of-latitude that corresponds to the terminus of the land boundary between the two States. The origin of this line is the 1952 *Declaration on the Maritime Zone*, proclaimed by Ecuador, Peru, and Chile, which refers to the "maritime zone" of each country as "bounded by the parallel of latitude drawn from the point of which the land frontier between the two countries reaches the sea."⁵⁵

⁵² IMO Assembly, Resolution A.927(22), (Nov. 29, 2001), Doc. No. A.22/Res.927 (Guidelines for the Designation of Special Areas Under MARPOL 73/78 and Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas). These Guidelines were effective for considering Ecuador's PSSA designation proposal and the APM for ships to avoid the designated area.

⁵³ IMO Assembly, Resolution A.976(24) (Dec. 1, 2005), Doc. No. [A.24/Res.976](#) (establishing Area to be Avoided) and Maritime Safety Committee, Report on its 83rd Session, Annex 25, Doc. No. MSC 83/28/Add.3 (Nov. 2, 2007) (describing recommended shipping tracks, which are mandatory as a condition of port entry, through the Galapagos Area to be Avoided to enter the PSSA). *See also*, Maritime Safety Committee, Resolution MSC.229(82) Annex 21 (Dec. 5, 2006), Doc. No. MSC 82/24/Add.2 (adopting a mandatory ship reporting system in the Galapagos PSSA). These APMs were considered and included in the designated PSSA under IMO Assembly, Resolution A.982(24), (Dec. 1, 2005), Doc. No. A.24/982 (Revised Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas).

⁵⁴ *Declaration*, *supra* note 8, sec. VIII.

⁵⁵ *Declaration*, *supra* note 2, para. IV. *See also*, [Limits in the Seas](#) No. 88 (1979).



Map 5. Illustrative map of Ecuador's claimed straight baselines and maritime boundaries. The 200 M limits are drawn by the U.S. Department of State from the straight baselines. Map scale: 1:13,000,000.

A 2011 agreement between Ecuador and Peru provides certainty and clarity with respect to this boundary.⁵⁶ First, this agreement specifies a geographic coordinate for the parallel-of-latitude to which the boundary corresponds (03° 23' 31.65" S). Second, the agreement clarifies the landward and seaward extents of the boundary. In the seaward direction, the boundary extends 200 M from the location where the above-mentioned parallel-of-latitude intersects with the straight baseline of Ecuador (and Peru) across Golfo de Guayaquil (81° 09' 12.53" W).⁵⁷ On the landward side, the maritime boundary extends along the same parallel, starting from the terminus of the Ecuador-Peru land boundary (80° 18' 49.27" W). This segment of the boundary, which is approximately 50 M in length, delimits the internal waters claims of the two countries within Golfo de Guayaquil.⁵⁸ Third, the 2011 agreement clarifies that the boundary between the two States is an all-purpose boundary, delimiting the “maritime spaces over which Peru and Ecuador have sovereignty or sovereign rights and jurisdiction, including both the water column and the bed and subsoil thereof.”

⁵⁶ Agreement by Exchange of Notes of Identical Content between the Republic of Peru and the Republic of Ecuador, May 2, 2011, entered into force May 20, 2011, 2756 UNTS 223 (I-48631); *Law of the Sea Bulletin* No. 76, at 30 (2011). See also, Ecuador's Executive Decree No. 450, Aug. 2, 2010, available from DOALOS, *supra* note 3.

⁵⁷ Regarding this straight baseline, see discussion *supra*, on Baselines (mainland, segment 4–5) and Historic Bays.

⁵⁸ The maritime boundary has no legal effect on the rights or obligations of third States, including the navigational rights and freedoms enjoyed by all States in the relevant maritime zones in accordance with international law as reflected in the Convention.

It appears that a 1954 agreement on a “Special Frontier Zone” remains in force between Ecuador and Peru.⁵⁹ This agreement establishes a zone “extending to a breadth of 10 nautical miles on either side of the” maritime boundary of Ecuador and Peru. The zone commences within Golfo de Guayaquil, “at a distance of 12 nautical miles from the coast,” and appears to continue for the full length of the boundary. Within this special frontier zone, it appears each State agrees to tolerate the “accidental presence” of small fishing vessels of the other State.

Ecuador-Colombia

In 1975, Ecuador and Colombia concluded a treaty establishing a maritime boundary delimiting their respective 200-M claims along a parallel-of-latitude that corresponds to the terminus of the land boundary between the two States.⁶⁰ This agreement also creates a 10 M “special zone” (commencing 12-M from the coast), within which each State will tolerate the small fishing vessels of the other State.⁶¹ This special zone is similar to the “special frontier zone” established with respect to the Ecuador-Peru boundary, discussed above.

In 2012, Ecuador and Colombia concluded an additional agreement that establishes certainty with respect to the parallel-of-latitude to which the 1975 boundary corresponds (1° 28' 10.49" N).⁶² The agreement also specifies the longitudinal coordinate pertaining to the location where the Ecuador-Colombia land boundary reaches the sea (78° 52' 7.27" W).

Ecuador-Costa Rica

In 1985, Ecuador and Costa Rica concluded a maritime boundary treaty delimiting the maritime zones of the two States generated by the Galapagos Islands (Ecuador) and Isla del Coco (Costa Rica).⁶³ This agreement provided for an equidistance line to be drawn using the basepoints for each State specified in the treaty. However, the treaty did not contain geographic coordinates establishing an actual boundary, and it did not enter into force.

In 2014, Ecuador and Costa Rica concluded a new maritime boundary treaty.⁶⁴ This treaty establishes an EEZ and continental shelf boundary, on the basis of equidistance, composed of two geodesic lines connecting three points. As with Ecuador’s other maritime boundaries, its boundary with Costa Rica has a 10 M “special zone” on each side of the boundary within which each State will tolerate the small fishing vessels of the other State.

⁵⁹ *Agreement Relating to a Special Maritime Frontier Zone*, signed by Chile, Ecuador and Peru, signed Dec. 4, 1954, entered into force, Sept. 21, 1967, 2274 UNTS 528 (I-40521). See also, [Limits in the Seas](#) No. 69 (1976).

⁶⁰ *Agreement Concerning Delimitation of Marine and Submarine Areas and Maritime Co-operation*, signed Aug. 23, 1975, entered into force Dec. 22, 1975, 996 UNTS 240 (I-14583).

⁶¹ *Id.*, art. 2 (to “ensure that the fortuitous presence of small private fishing craft from either country in the aforesaid zone is not considered a violation of the maritime frontier”).

⁶² *Joint Declaration by the Ministers of Foreign Relations of the Republics of Ecuador and Colombia*, signed and entered into force on June 13, 2012, VII *International Maritime Boundaries* 4765–4768.

⁶³ *Convention on the Delimitation of Maritime and Submarine Areas between the Republics of Costa Rica and Ecuador*, signed Mar. 12, 1985 (not in force).

⁶⁴ *Agreement between the Republic of Costa Rica and the Republic of Ecuador on Maritime Delimitation*, signed Apr. 21, 2014, entered into force Sept. 9, 2016, 54729 UNTS 1, [Law of the Sea Bulletin](#) No. 93, at 16 (2017).

Conclusion

Aspects of Ecuador's maritime claims are either plainly inconsistent with international law or, at best, ambiguous. Ecuador's baselines pertaining to its mainland and the Galapagos Islands do not conform to relevant provisions of the Convention and are not recognized by the United States. Ecuador's historic bay claim with respect to Golfo de Guayaquil is likewise inconsistent with international law governing historic bay claims and is not recognized by the United States.

Ecuador's claims relating to its maritime zones are characterized by considerable ambiguity, as described in this study. On the one hand, Ecuador continues to maintain its excessive 200-M territorial sea claim. On the other hand, Ecuador appears to be taking steps to bring this maritime claim into conformance with the Convention, in connection with its 2012 accession. Those efforts include declaring a 12-M territorial sea and a 200-M EEZ. Notwithstanding this effort, concerns remain regarding Ecuador's restrictions with respect to rights and freedoms related to navigation and overflight. As discussed in this study, these restrictions include those contained in Ecuador's declaration upon accession to the Convention, and also those exhibited in its practice with the United States on matters such as overflight by State aircraft.

Ecuador has concluded maritime boundary agreements with Peru, Colombia, and Costa Rica. It does not appear that Ecuador has any unresolved maritime boundaries with these or other States.

Annex 1

Declaration on the Maritime Zone Governments of Chile, Ecuador and Peru August 18, 1952

1. Governments have the obligation to ensure for their peoples the necessary conditions of subsistence, and to provide them with the resources for their economic development.

2. Consequently, they are responsible for the conservation and protection of their natural resources and for the regulation of the development of these resources in order to secure the best possible advantages for their respective countries.

3. Thus, it is also their duty to prevent any exploitation of these resources, beyond the scope of their jurisdiction, which endangers the existence, integrity and conservation of these resources to the detriment of the peoples who, because of their geographical situation, possess irreplaceable means of subsistence and vital economic resources in their seas.

In view of the foregoing considerations, the Governments of Chile, Ecuador and Peru, determined to conserve and safeguard for their respective peoples the natural resources of the marine zones adjacent to their coasts, formulate the following Declaration:

(I) The geological and biological factors which determine the existence, conservation and development of marine fauna and flora in the waters along the coasts of the countries making the Declaration are such that the former extension of the territorial sea and the contiguous zone are inadequate for the purposes of the conservation, development and exploitation of these resources, to which the coastal countries are entitled.

(II) In the light of these circumstances, the Governments of Chile, Ecuador and Peru proclaim as a norm of their international maritime policy that they each possess exclusive sovereignty and jurisdiction over the sea along the coasts of their respective countries to a minimum distance of 200 nautical miles from these coasts.

(III) The exclusive jurisdiction and sovereignty over this maritime zone shall also encompass exclusive sovereignty and jurisdiction over the seabed and the subsoil thereof.

(IV) In the case of island territories, the zone of 200 nautical miles shall apply to the entire coast of the island or group of islands. If an island or group of islands belonging to one of the countries making the declaration is situated less than 200 nautical miles from the general maritime zone belonging to another of those countries, the maritime zone of the island or group of islands shall be limited by the parallel at the point at which the land frontier of the States concerned reaches the sea.

(V) This declaration shall be without prejudice to the necessary limitations to the exercise of sovereignty and jurisdiction established under international law to allow innocent and inoffensive passage through the area indicated for ships of all nations.

(VI) For the application of the principles contained in this Declaration, the Governments of Chile, Ecuador and Peru hereby announce their intention to sign agreements or conventions which shall establish general norms to regulate and protect hunting and fishing within the maritime zone belonging to them, and to regulate and co-ordinate the exploitation and development of all other kinds of products or natural resources existing in these waters which are of common interest.

Annex 2⁶⁵

Civil Code as amended by Decree No. 256-CLP of 27 February 1970 Book II, Title III - National Property

Article 628

The adjacent sea, to a distance of 200 nautical miles measured from the low-water mark, at the most salient points of the continental Ecuadorian coast and the outer-most islands of the Colón Archipelago, according to the baseline to be indicated by Executive Decree, shall constitute the territorial sea and be part of the national domain.

The adjacent sea between the baseline referred to in the preceding paragraph and the low-water mark shall constitute internal waters and be part of the national domain.

If maritime police and defence zones more extensive than those specified in the preceding paragraphs are determined under relevant international treaties, the provisions of such treaties shall prevail.

The different zones of the territorial sea that shall be subject to the régime of free maritime navigation or of innocent passage for foreign ships shall be established by Executive Decree.
The bed and subsoil of the adjacent sea also form part of the public domain.

Article 629

The air space corresponding to the territory of the State, including the territorial sea as defined in the preceding article, shall also be part of the national domain.

Regulations governing the free air transit zone above the territorial sea shall be made by the Executive.

⁶⁵ Geographic names are not necessarily those officially used by the United States.

Annex 3⁶⁶

Supreme Decree No. 959-A of 28 June 1971 prescribing straight baselines for the measurement of the Territorial Sea

Whereas article 628 of the Civil Code in force provides that the Ecuadorian territorial sea shall be measured in both the continental territory of the Republic and the Colón Archipelago (Galapagos Islands), from the straight baselines which will be determined for this purpose by Executive Decree; and

Whereas, a Commission composed of representatives of the Ministry of Foreign Relations, the Navy and the Military Geographic Institute has studied the plotting of such lines and determined their trajectory; and

Whereas, such study has been approved by the Ministry of Foreign Relations and the Ministry of National Defense on the grounds that it is in the national interest and fully conforms to the rules of international law which are in force on the matter,

It is hereby decreed:

Article 1

The straight baselines from which the breadth of the territorial sea of the Republic shall be measured shall be constituted by the following traverses:

I. On the continent

- (a) The line shall start from the point of intersection of the maritime frontier with Colombia, with the straight line Punta Manglares (Colombia) - Punta Galera (Ecuador);
- (b) From this point a straight line passing through Punta Galera and meeting the northernmost point of Isla de la Plata;
- (c) From this point a straight line to Puntilla de Santa Elena;
- (d) A straight line from Puntilla de Santa Elena in the direction of Cabo Blanco (Peru) to the intersection with the geographic parallel constituting the maritime frontier with Peru.

II. In the Colón Archipelago (Galapagos Islands)

- (a) From Islote Darwin a straight line to the north-eastern tip of Isla Pinta;
- (b) A straight line to the northernmost point of Isla Genovesa;
- (c) A straight line passing through Punta Valdizan, Isla San Cristóbal, and intersecting the northern extension of the straight line joining the south-eastern tip of Isla Española to Punta Pitt, Isla San Cristóbal;
- (d) A straight line from this intersection to the south-eastern tip of Isla Española;
- (e) A straight line to Punta Sur, Isla Santa María;
- (f) A straight line passing through the south-eastern tip of Isla Isabela, near Punta Essex, and intersecting the southern extension of the line joining the outermost projecting point of the

⁶⁶ Geographic names are not necessarily those officially used by the United States.

western coast of Isla Fernandina, approximately in its middle, with the western tip of the southern sector of Isla Isabela, in the vicinity of Punta Cristóbal;

(g) From this point of intersection a line passing through the western tip of the southern sector of Isla Isabela, in the vicinity of Punta Cristóbal, to the outermost projecting point on the western coast of Isla Fernandina, approximately in its middle; and

(h) A straight line to Isla Darwin.

Article 2

The sea areas lying between the lines described in article 1(I) and the coast line on the continent, and within the lines described in article 1(II), in the Colón Archipelago, shall constitute internal waters.

Article 3

The Hydrographic and Oceanographic Service of the Navy, in cooperation with the Military Geographic Institute, will perform the necessary geodetic and astronomical work for determining the geographic coordinates of the reference points throughout the lines in both the continental coast and in the coast of the Galapagos Islands and the outer limits of the territorial sea, and will also establish the azimuths and extensions of the segments of each traverse described in Article 1, and any other technical data that may be essential in plotting the aforesaid straight baselines.

Article 4

The funds required for performing the work to which reference is made in Article 3 will be made available to the Hydrographic and Oceanographic Service of the Navy by the National Government through the proper Ministries.

Article 5

Upon completion of the work to which reference is made in Article 3, the Hydrographic and Oceanographic Service of the Navy, in cooperation with the Military geographic Institute, will plot, on a nautical chart drawn up to a suitable scale, the straight baselines and the outer and lateral limits of the territorial sea of the Republic.

Article 6

The nautical chart, with the plottings to which reference is made in Article 4, shall be approved under an Executive Decree.

Issued at the National Palace, in Quito, on June 28, 1971.

/s/ J.M. Velasco Ibarra
President of the Republic

/s/ Vicente Burneo Burneo
Minister of Production
Acting Minister of Foreign Relations

/s/ Luis Robles Plaza
Minister of National Defense

Annex 4⁶⁷

Declaration on the continental shelf September 19, 1985

Leon Febres Cordero Ribadeneyra, Constitutional President of the Republic, BEARING IN MIND:

That on the sea-bed lying between the continental territorial sea of Ecuador and the territorial sea which surrounds the Galapagos Islands, the Carnegie Ridge lies at depths of less than 2,500 metres;

That scientific research has revealed the presence of significant natural resources existing in the sea-bed and subsoil of that marine area;

That the international law of the sea recognizes that the coastal States have the power to delineate the limits of their continental shelves up to a distance of 100 miles from the 2,500 metre isobath;

That the national Government has a duty to protect the sovereign rights of the Ecuadorian State over the continental shelf and its resources,

DECLARES:

That, in addition to the continental and insular shelf within its territorial sea of 200 miles, the sea-bed and subsoil located between Ecuador's continental territorial sea and its insular territorial sea around the Galapagos Islands, up to a distance of 100 miles measured from the 2,500 metre isobath, also form part of the continental shelf of Ecuador. The Ecuadorian authorities will therefore propose the appropriate legal reform to protect the sovereign rights of the Republic with respect to the above-mentioned continental shelf, consistent with further subsequent development of both national legislation and the principles of the international law of the sea accepted by Ecuador and the international community.

⁶⁷ Geographic names are not necessarily those officially used by the United States.

Annex 5⁶⁸

Joint Declaration on the International Recognition of the Gulf of Guayaquil as a Historic Bay November 23, 2012

The Presidents of the Republic of Ecuador, his Excellency Mr. Rafael Correa Delgado, and the Republic of Peru, his Excellency Mr. Ollanta Humala Tasso, meeting in the city of Cuenca, Ecuador, on 23 November 2012 on the occasion of the presidential meeting and the sixth meeting of the Binational Cabinet of Ministers of Peru and Ecuador;

Considering that the Agreement by exchange of notes of identical content between Ecuador and Peru on maritime boundaries of 2 May 2011;

(i) Reflected the commitment of both countries to carry out joint actions for the recognition of the Gulf of Guayaquil as a Historic Bay (paragraph 1);

(ii) Decided that, in view of special circumstances in the area adjacent to the land boundary between the two countries, the boundary between the maritime areas over which both States have sovereignty or sovereign rights and jurisdiction shall extend along geographical parallel 03°23'31.65"S under WGS 84 (paragraph 2);

(iii) Decided that the starting point of the maritime boundary shall be set at the point of convergence between the baselines of Peru and Ecuador (paragraph 3) and that such maritime boundary shall extend up to 200 nautical miles from that point (paragraph 4);

(iv) Decided that the internal waters adjacent to both States shall be demarcated by geographical parallel 03°23'31.65"S under WGS84 and that the internal waters of each State shall be defined without prejudice to the freedoms of international navigation under customary international law, as reflected in the 1982 United Nations Convention on the Law of the Sea (paragraph 5);

Considering that the Gulf of Guayaquil is a geographical area which stretches from the Puntilla de Santa Elena in Ecuador to Cabo Blanco in Peru;

Bearing in mind the historic, legal, cartographic and geomorphological surveys carried out by the joint Peru-Ecuador working group in support of the Joint Declaration on the International Recognition of the Gulf of Guayaquil as a Historic Bay referred to in the "*Declaración Presidencial Fortaleciendo la Integración para la Inclusión Social y el Desarrollo Sostenible*" (Presidential Declaration aimed at enhancing integration to promote social inclusion and sustainable development) of 29 February 2012;

Bearing in mind that the waters of the Gulf of Guayaquil have historically been under the sovereignty and jurisdiction of each State in their respective sectors, in view of its unique geographical conditions and ecosystem, and recognizing that the Gulf of Guayaquil has been viewed by the people of Ecuador and Peru as a major area for the exploitation of natural resources, trade and shipping;

Bearing in mind that Peru and Ecuador have historically exercised sovereignty and jurisdiction over their respective sectors of the Gulf of Guayaquil, as reflected in their domestic legislation, including legislation on baselines enacted by each State;

⁶⁸ Geographic names are not necessarily those officially used by the United States.

Considering the prospects opened up for both States and their peoples by the present Joint Declaration with respect to cooperation; the conservation, exploration and sustainable exploitation of the resources of the Gulf of Guayaquil; addressing issues such as climate change; and the need to combat illicit activities more effectively in accordance with their respective legislation; and addressing security threats;

Hereby declare that:

I. The Gulf of Guayaquil, an area between Puntilla de Santa Elena in Ecuador and Cabo Blanco in Peru, is a Historic Bay;

II. The outer limit of the Historic Bay shall be defined by the point at which the straight baselines of Peru and Ecuador meet at the starting point of the maritime boundary between the two States (03°23'31.65"S, 81°09'12.53"W under WGS84);

III. The waters of the Historic Bay within the straight baselines of Peru and Ecuador, together with the soil and subsoil thereof, are internal waters under the sovereignty and jurisdiction of each of the declaring States, without prejudice to the freedoms of international navigation under customary international law, as reflected in the 1982 United Nations Convention on the Law of the Sea;

IV. Both States shall undertake further studies and strengthen cooperation with the aim of fostering the social inclusion and development of their people, especially the inhabitants of the Gulf of Guayaquil. To that end, the two States shall enter into agreements relating to the conservation, exploration and sustainable exploitation of the resources of the Gulf of Guayaquil, addressing climate change, combating illicit activities and other issues of common interest. They shall enter into individual agreements with regard to the exploration and exploitation of shared natural resources, such as oil and gas, in the maritime boundary area between both States;

V. Both States shall submit the present Joint Declaration to the United Nations.

(Signed) Rafael **Correa Delgado**
President of the Republic of Ecuador

(Signed) Ollanta **Humala Tasso**
President of the Republic of Peru

Annex 6⁶⁹

Declaration of Ecuador made upon Access to the U.N. Convention on the Law of the Sea

Date of deposit: September 12, 2012

Date of effect: October 12, 2012

Upon ratification (24 September 2012):

I. The Ecuadorian State, pursuant to article 4 of the Constitution of the Republic, which provides that "the territory of Ecuador constitutes a single geographical and historical unit with natural, social and cultural dimensions, the legacy of our forebears and ancestral peoples. This territory includes the continental and maritime space, the adjacent islands, the territorial sea, the Galapagos Archipelago, the soil, the continental shelf, the subsoil and the superjacent continental, island and maritime space. Its boundaries are those established in the treaties in force", confirms the full validity of the Declaration of Santiago on the Maritime Zone, signed in Santiago, Chile, on 18 August 1952, by means of which Chile, Ecuador and Peru declared "... as a norm of their international maritime policy, the exclusive sovereignty and jurisdiction that each of them possesses in respect of the sea adjacent to the coasts of their respective countries, up to a minimum distance of 200 nautical miles from those coasts..." in order "... to ensure that their peoples have the necessary livelihood conditions and to provide them with the means for their economic development...";

II. The Ecuadorian State, in accordance with the provisions of the Convention, exercises sovereignty and jurisdiction over the 200 nautical miles that comprise the following maritime spaces:

1. Internal waters, which are the waters on the landward side of the baselines;
2. The territorial sea, which extends from the baselines to a limit not exceeding 12 nautical miles;
3. The exclusive economic zone, which is an area that extends for 188 nautical miles from the outer limits of the territorial sea; and,
4. The continental shelf;

III. Ecuador shall exercise its sovereign jurisdiction and competence, without limitation or restriction of any type, in the internal waters and the 12 nautical miles of the territorial sea, measured from the baselines. It guarantees the right of coastal and non-coastal countries to continuous and expeditious innocent passage of their ships, with the obligation that they comply with the provisions of the Ecuadorian State, and provided that such passage is not prejudicial to the peace, good order or security of the State;

IV. In the exclusive economic zone, the Republic of Ecuador shall have the following rights and obligations:

1. Exclusive sovereignty for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil;
2. Exclusive sovereignty for the purposes of the economic exploitation and exploration of the zone, such as the production of energy from the water, marine currents and winds;

⁶⁹ Geographic names are not necessarily those officially used by the United States.

3. Exercise of the exclusive right to authorize, regulate and undertake the construction, operation and use of all types of artificial islands, installations and structures within the 200 miles of its maritime territory, including the continental shelf;
4. The other rights and duties laid down in the Convention;
5. All other States, whether coastal or land-locked, enjoy the freedoms of navigation, overflight and the laying of submarine cables and pipelines, subject to the provisions of the Convention.

The other States shall observe and comply with the laws, rules and regulations issued by the Ecuadorian State in its capacity as a coastal State;

V. With regard to the continental shelf, the Ecuadorian State exercises exclusive sovereign rights for the purposes of exploring, conserving and exploiting its natural resources, and no one may exploit them without its express consent.

The Ecuadorian State declares that, within the timeframe and the conditions set forth in article 76 of the Convention, it will make use of its right to extend its continental shelf to a distance of 350 nautical miles measured from the baselines of the Galapagos Archipelago;

VI. Ecuador reiterates the full force and validity of Supreme Decree No. 959-A, published on 28 June 1971 in Official Register No. 265 of 13 July 1971, by means of which it established its straight baselines in accordance with international law. It reaffirms that the said lines in the Galapagos Archipelago are determined by the common geological origin of those islands, their historical unity and the fact that they belong to Ecuador, as well as the need to protect and preserve their unique ecosystems. The baselines, from which the maritime spaces described in paragraph II of the present Declaration are measured, are as follows:

1. Continental baselines:

- (a) The line will start from the point of intersection of the maritime boundary with Colombia with the straight line Punta Manglares (Colombia) - Punta Galera (Ecuador);
- (b) From this point, a straight line passing through Punta Galera and meeting the most northerly point of Isla de la Plata;
- (c) From this point a straight line to Puntilla de Santa Elena;
- (d) A straight line from Puntilla de Santa Elena in the direction of Cabo Blanco (Peru) to the intersection with the geographical parallel that constitutes the maritime boundary with Peru.

2. Insular baselines:

- (a) From Islote Darwin, a straight line to the north-eastern tip of Isla Pinta;
- (b) A straight line to the most northerly point of Isla Genovesa;
- (c) A straight line passing through Punta Valdizan, Isla San Cristobal, and intersecting the northern extension of the straight line joining the south-eastern tip of Isla Española with Punta Pitt, Isla San Cristobal;
- (d) A straight line from this intersection to the south-eastern tip of Isla Española;
- (e) A straight line to Punta Sur, Isla Santa Maria;
- (f) A straight line passing through the south-eastern tip of Isla Santa Isabela, near Punta Essex, and intersecting the southern extension of the line joining the outermost projecting point of the

western coast of Isla Fernandina, approximately in its centre, with the western tip of the southern part of Isla Isabela, in the vicinity of Punta Cristobal;

(g) From this point of intersection a line passing through the western tip of the southern part of Isla Isabela, in the vicinity of Punta Cristobal, to the outermost projecting point of the western coast of Isla Fernandina, approximately in its centre;

(h) A straight line to Isla Darwin;

VII. With regard to the delimitation of the maritime spaces adjacent to the continental territory of Ecuador, the State declares that this is determined by the delimitation treaties in force and constituted by the geographical parallels extending from the points where the land boundaries reach the sea;

VIII. It confirms the full validity of the international instruments applicable to the Galapagos Archipelago, by means of which it has been listed as a United Nations Educational, Scientific and Cultural Organization (UNESCO) Natural Heritage for Humanity site and a biosphere reserve of the UNESCO Man and the Biosphere Programme.

The Ecuadorian State therefore exercises full jurisdiction and sovereignty over the Galapagos Marine Reserve, established by the law on the special regime for the conservation and sustainable development of the province of Galapagos, published in Official Register No. 278 of 18 March 1998, as well as over the Particularly Sensitive Sea area and the "area to be avoided", both established by the International Maritime Organization;

IX. Ecuador declares that the Gulf of Guayaquil is a historic bay, owing to its traditional use and exploitation by the people of Ecuador, as well as the positive influence of the waters of the Guayas river in generating an ecosystem rich in natural resources;

X. The Ecuadorian State declares that it has the exclusive right to regulate uses or activities not expressly provided for in the Convention (residual rights and jurisdiction) that relate to its rights within the 200 nautical miles, as well as any future expansion of the said rights;

XI. It declares that States whose warships, naval auxiliaries, or other vessels or aircraft that, subject to prior notification of and authorization by the Ecuadorian State, may pass through the maritime spaces subject to its sovereignty and jurisdiction, are liable for any damage they cause by polluting the marine environment, pursuant to articles 235 and 236 of the Convention;

XII. In accordance with the relevant provisions of the Convention, when the same or associated fish stocks are found both within the Ecuadorian 200-mile zone and in a maritime area adjacent to the said zone, the States whose nationals fish for those species in the area adjacent to the Ecuadorian zone must agree with the Ecuadorian State the measures necessary to conserve and protect them, as well as to promote their optimum utilization. In the absence of such agreement, Ecuador reserves to itself the exercise of its rights under article 116 and other provisions of the Convention, as well as all other relevant rules of international law;

XIII. The Ecuadorian State, in cases where it is party to a commercial contract in the Area of the seabed, will not submit itself to binding commercial arbitration, as this is prohibited by article 422 of its Constitution. In such cases, it will provide prior express notice of the dispute resolution mechanism to which it will submit, provided that this does not involve the transfer of its sovereign jurisdiction.

XIV. In accordance with article 287 of the Convention, Ecuador chooses, for the settlement of disputes concerning the interpretation or application of the Convention:

1. The International Tribunal for the Law of the Sea;
2. The International Court of Justice;
3. A special tribunal constituted in accordance with Annex VIII, for one or more of the categories of disputes relating to fisheries, protection and preservation of the marine environment, marine scientific research and navigation, including pollution from vessels and by dumping;

XV. With regard to article 297, paragraphs 2 and 3 of the Convention, the Government of Ecuador will not accept the submission to the procedures provided for in Part XV, section 2, of disputes relating to the exercise of its rights in relation to scientific research, as well as with respect to the regulation of fisheries within the 200 nautical miles, including its discretionary powers for determining the catch, its harvesting capacity, the allocation of surpluses, if any, and the terms and conditions established in its conservation and management laws and regulations;

XVI. With regard to the provisions of article 297, paragraph 3, subparagraphs (b) (iii) and (c), Ecuador will not accept the validity of any report of the conciliation commission that substitutes its discretion for that of the Ecuadorian State in relation to the use of surplus living resources within its areas of sovereignty and jurisdiction, in application of articles 62, 69 and 70 of the Convention, or whose recommendations entail effects detrimental to Ecuadorian fishing activities;

XVII. In accordance with article 298 of the Convention, Ecuador declares that it does not accept any of the procedures provided for in Part XV, section 2, with respect to the categories of disputes described in paragraph 1, subparagraphs (a), (b) and (c), of the said article 298;

XVIII. The Ecuadorian State declares, in accordance with articles 5 and 416 of the Constitution of the Republic, that its maritime spaces constitute a zone of peace; consequently, no military exercises or manoeuvres of any type, nor any shipping activities that threaten or could threaten peace and security, may be conducted without its express consent.

Furthermore, it hereby declares that prior notification and authorization shall be required for the transit through its maritime spaces of ships powered by nuclear energy or transporting radioactive, toxic, hazardous or harmful substances.